



State of Connecticut
Office of Governor Ned Lamont

BILL NOTIFICATION 2021-26

July 13, 2021

Governor Lamont signed the following legislation of the 2021 Regular Session on July 13:

HB 6676 SA 21-19	AN ACT CONCERNING THE REPEAL OF THE CONVEYANCE OF A PARCEL OF STATE LAND TO THE TOWN OF FARMINGTON.
HB 6679 SA 21-20	AN ACT CONCERNING THE LEASE OF A PARCEL OF STATE LAND IN THE CITY OF MILFORD.
HB 6580 SA 21-27	AN ACT CONCERNING AGRICULTURAL EDUCATION PROGRAMS.
HB 6606 SA 21-28	AN ACT CONCERNING ECONOMIC DEVELOPMENT IN DISTRESSED MUNICIPALITIES AND THE RENOVATION OF HISTORIC MIXED-USE BUILDINGS.
HB 6684 SA 21-29	AN ACT CONCERNING THE CONVEYANCE OF A PARCEL OF STATE LAND IN THE TOWN OF WILTON.
SB 1114 SA 21-30	AN ACT RELINQUISHING THE STATE INTEREST IN A PARCEL OF LAND CONVEYED TO THE TOWN OF EAST WINDSOR.
HB 6680 SA 21-32	AN ACT CONCERNING THE CONVEYANCE OF A PARCEL OF STATE LAND IN THE TOWN OF WINDSOR TO THE TOWN OF WINDSOR.
HB 6685 SA 21-33	AN ACT CONCERNING THE CONVEYANCE OF A PARCEL OF STATE LAND IN THE TOWN OF NORTH HAVEN.
SB 1109 SA 21-34	AN ACT CONCERNING THE CONVEYANCE OF A PARCEL OF STATE LAND IN THE TOWN OF SOUTH WINDSOR.
SB 1111 SA 21-36	AN ACT AMENDING A CONVEYANCE OF A PARCEL OF STATE LAND IN THE TOWN OF FAIRFIELD.
HB 6102 SA 21-38	AN ACT CONCERNING A SPECIAL TAXING DISTRICT WITHIN THE CITY OF WEST HAVEN.
SB 1112 PA 21-147	AN ACT AMENDING THE CONVEYANCE OF PARCELS OF STATE LAND TO THE CITY OF NEW HAVEN.

SB 1030 PA 21-185	AN ACT CONCERNING NURSING HOMES AND DEMENTIA SPECIAL CARE UNITS.
HB 6589 PA 21-187	AN ACT CONCERNING THIRD-PARTY ACCESS TO PARTICIPATING DENTAL PROVIDER CONTRACTS.
SB 3 PA 21-188	AN ACT CONCERNING DIVERSE ECONOMIC OPPORTUNITY, WORKER PROTECTIONS AND SMALL BUSINESS REVITALIZATION.
SB 658 PA 21-189	AN ACT REQUIRING EMPLOYERS TO RECALL CERTAIN LAID-OFF WORKERS IN ORDER OF SENIORITY.
SB 716 PA 21-190	AN ACT CONCERNING THE FEDERAL STUDENT LOAN BORROWERS' BILL OF RIGHTS ACT OF 2019.
SB 837 PA 21-191	AN ACT CONCERNING THE USE OF PERFLUOROALKYL OR POLYFLUOROALKYL SUBSTANCES IN CLASS B FIREFIGHTING FOAM.
SB 895 PA 21-192	AN ACT CONCERNING CHANGES TO VARIOUS PHARMACY STATUTES.
SB 936 PA 21-193	AN ACT CONCERNING REVISIONS TO CERTAIN ECONOMIC AND COMMUNITY DEVELOPMENT-RELATED STATUTES.
SB 973 PA 21-194	AN ACT STRENGTHENING THE VOICE OF RESIDENTS AND FAMILY COUNCILS.
SB 983 PA 21-195	AN ACT CONCERNING SERVICE VEHICLES AND AGRICULTURAL TRACTORS.
SB 1070 PA 21-196	AN ACT CONCERNING PHYSICIAN ASSISTANTS.
SB 266 PA 21-197	AN ACT CONCERNING REQUIREMENTS FOR HOME CONSTRUCTION CONTRACTORS AND HOME IMPROVEMENT CONTRACTORS AND SALESPERSONS, EXEMPTING CERTAIN PERSONS FROM LOCKSMITH REGISTRATION REQUIREMENTS AND EXPANDING THE APPLICABILITY OF THE SMALL CLAIMS PROCEDURE.
SB 1076 PA 21-198	AN ACT CONCERNING THE SUBMISSION OF UPDATE STATEMENTS, THE REMOVAL OF REFERENCES TO UPDATE BID STATEMENTS AND THE GRANTING OF EASEMENTS ON STATE LAND.

SB 1032
PA 21-199

AN ACT CONCERNING VARIOUS REVISIONS AND ADDITIONS TO THE STATUTES RELATING TO EDUCATION AND WORKFORCE DEVELOPMENT.

SB 1100
PA 21-201

AN ACT CONCERNING THE FAILURE TO FILE FOR CERTAIN GRAND LIST EXEMPTIONS AND THE FEE FOR LIMITED LIABILITY COMPANIES TO FILE AN ANNUAL REPORT.

Governor Lamont vetoed the following legislation of the 2021 Regular Session on July 13:

HB 6678
SA 21-31

AN ACT CONCERNING THE CONVEYANCE OF A PARCEL OF STATE LAND IN THE TOWN OF WOLCOTT.

Governor Lamont's veto message can be found on page 4 of this document.

SB 1110
PA 21-146

AN ACT AMENDING THE CONVEYANCE OF PARCELS OF STATE LAND TO THE NEW HAVEN PORT AUTHORITY.

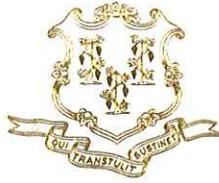
Governor Lamont's veto message can be found on page 5 of this document.

SB 940
PA 21-183

AN ACT CONCERNING STATE AGENCY COMPLIANCE WITH PROBATE COURT ORDERS.

Governor Lamont's veto message can be found on page 7 of this document.

As of this date, the governor has signed two hundred thirty-five (235) bills and vetoed four (4) bills of the 2021 Regular Session. He has also signed two (2) bills of the June 2021 Special Session.



CONNECTICUT
SECRETARY OF THE STATE
CAPITOL OFFICE

2021 JUL 13 P 7:29

Ned Lamont

GOVERNOR
STATE OF CONNECTICUT

July 13, 2021

The Honorable Denise W. Merrill
Secretary of the State
165 Capitol Avenue
Hartford, CT 06106

Dear Madam Secretary:

I hereby return, without my signature, House Bill 6678, *An Act Concerning the Conveyance of a Parcel of State Land in the Town of Wolcott*. The bill would require the Department of Transportation to sell a parcel of property to an individual private business owner for \$6,000 plus the administrative costs of making the conveyance.

This bill comes after negotiations between the private individual, who is leasing the property, and the Department of Transportation (DOT) failed to produce a sales price that the department could reasonably justify to the Office of Policy and Management (OPM) or the State Properties Review Board as being in the best interest of Connecticut and its taxpayers. The \$6,000 sales price required by the legislation is less than one quarter of the appraised fair market value for the property. My administration has not been informed of any extenuating circumstance or other justification for turning over a taxpayer asset to a private interest for far less than fair market value. Accordingly, the DOT and OPM both provided testimony opposing this bill as drafted.

For these reasons, I disapprove of House Bill 6678, *An Act Concerning the Conveyance of a Parcel of State Land in the Town of Wolcott*. Pursuant to Section 15 of Article Fourth of the Constitution of the State of Connecticut, I am returning House Bill 6678 without my signature.

Sincerely,

A handwritten signature in blue ink that reads "Ned Lamont".

Ned Lamont
Governor



CONNECTICUT
SECRETARY OF THE STATE
CAPITOL OFFICE

2021 JUL 13 P 7:28

STATE OF CONNECTICUT

GOVERNOR NED LAMONT

July 13, 2021

The Honorable Denise W. Merrill
Secretary of the State
165 Capitol Avenue
Hartford, CT 06106

Dear Madam Secretary:

I hereby return, without my signature, Senate Bill 1110, *An Act Concerning the Conveyance of Parcels of State Land to the New Haven Port Authority*. The bill would require the Department of Transportation (DOT) to deduct from the sale price of several parcels of land approved for conveyance three years ago any costs for environmental investigation and remediation.

This property was originally purchased using federal funds. Except in certain circumstances, federal law requires the sale be for fair market value; not the fair market value less remediation costs.¹ The Federal Highway Administration (FHWA) also requires that the sale proceeds be used as a match toward other federally participating projects. FHWA annually audits and reviews DOT's property transactions and has the authority to withhold federal funding for current and future projects for being non-compliant with federal law. As a result, DOT cannot use any of the sale proceeds to cover the remediation costs but must find an alternative source of funds.

Standard appraisal practice does not deduct remediation costs from the property value unless there are remediation orders issued by the Department of Energy and Environmental Protection.² Environmental testing is typically part of the due diligence of the purchaser, here the New Haven Port Authority, and not paid by the seller, DOT.

¹ Under DOT's agreement with FHWA, the sale should be for fair market value, absent a public interest finding by FHWA and a separate approval by the Secretary of Transportation.

² Here, there is no information to show that the property outlined in the bill is an Establishment pursuant to the Connecticut Transfer Act. *See Conn. Gen. Stat. § 22a-134*. There are no required remediation orders from the Department of Energy and Environmental Protection and there are no known significant environmental hazards present on the site.

While the legislation requires remediation, it does not specify the level of remediation. The level of remediation and associated costs are dependent on the use of the land. The legislation is silent as to how the land will be used. As written, therefore, the legislation opens DOT and consequently the state taxpayers to an unknown and potentially very high cost.

For these reasons, I disapprove of Senate Bill 1110, *An Act Concerning the Conveyance of Parcels of State Land to the New Haven Port Authority*. Pursuant to Section 15 of Article Fourth of the Constitution of the State of Connecticut, I am returning Senate Bill 1110 without my signature.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ned Lamont".

Ned Lamont
Governor



Ned Lamont
GOVERNOR
STATE OF CONNECTICUT

CONNECTICUT
SECRETARY OF THE STATE
CAPITOL OFFICE

2021 JUL 13 P 7:29

July 13, 2021

The Honorable Denise W. Merrill
Secretary of the State
165 Capitol Avenue
Hartford, CT 06106

Dear Madam Secretary:

I hereby return, without my signature, Senate Bill 940, *An Act Concerning State Agency Compliance with Probate Court Orders*.

This bill requires state agencies to recognize, apply, and honor probate court decisions to which they were not a party. In effect, this means that probate court decisions would bind state agency eligibility determinations for various state assistance programs, including the Medicaid program. This requirement may violate federal and state law, pose a substantial risk of losing federal funds, violate a basic principle of law, and result in increased costs that were not included in the budget.

The Attorney General has previously testified that this legislation may violate federal and state laws and thus “poses a substantial threat of loss of billions of federal dollars to the State.”¹ Federal law requires the State to designate one single agency that is responsible for administering the Medicaid program and for making eligibility determinations.² This single state agency requirement represents Congress’s recognition that in managing Medicaid, states should enjoy both an administrative benefit, i.e., the ability to designate a single state agency to make final decisions in the interest of efficiency, but also a corresponding burden, i.e., an accountability regime in which that agency cannot evade federal requirements by deferring to the actions of other agencies.³ In Connecticut, the Department of Social Services (DSS) is the designated agency.⁴ This legislation, by requiring that a decision made in a different forum, under different rules be binding on DSS in its determination of Medicaid eligibility could lead the federal

¹ *Testimony of Attorney General William Tong on SB 938*, March 6, 2019, a bill substantially similar to SB 940.

² 42 U.S.C. 1396a(a)(5).

³ *See generally*, S. Rep. No. 404, 89th Cong., 1st Sess. (1965), *reprinted in* 1965 U.S. Code Cong. & Ad. News 1943, 2016-17 (suggesting that certain provisions of Medicaid bill were intended to achieve “simplicity of administration” and “assurance ... that the States will not administer the provisions for services in a way which adversely affects the availability or the quality of care to be provided.”; *See also*, *Hillburn v. Maher*, 795 F.2d 252, 261 (2d Cir. 1986) and *K.C. v. Shipman*, 716 F.3d 107, 112 (4th Cir. 2013).

⁴ Conn. Gen. Stat. § 17b-261b (a).

government to conclude that Connecticut is not in compliance with the single administrator requirement.⁵ Such a determination would allow the federal government to reduce or withhold federal matching funds.⁶

Testimony in support of this legislation has described the legislation as simply codifying a 2018 Connecticut Supreme Court decision, *Valliere v. Commissioner of Social Services*, 328 Conn. 294 (2018). That case, however, does not stand for the broad proposition that a probate court can bind DSS in determinations of Medicaid eligibility. *Valliere* applies to a limited factual and legal circumstance concerning community spouse assistance determinations as permitted by federal law. It was a federal statute,⁷ in *Valliere*, that required DSS to follow an existing court order.

I do not see a good reason to take on this risk of a loss of federal funds to address an issue that is not clearly defined or a problem that may not exist.

We have a system in place that works. There is no need to change it. The probate court makes binding decisions for issues that are within its jurisdiction. State agencies do the same for benefit eligibility determinations. If an agency makes an arbitrary or capricious determination, there is an existing appeal right codified in the Uniform Administrative Procedures Act.⁸

This legislation binds an agency to factual findings made in a probate proceeding to which it was not a party. This situation goes against basic principles of law and, practically speaking, would require the agency to identify every probate proceeding where a factual finding may later be relevant to a matter that may come before the agency at some future date. The agency or the Attorney General's office would then have to send an attorney to every one of those probate proceedings. This process is unworkable and fiscally irresponsible. The Attorney General has previously testified "that this bill would result in hundreds of new probate cases per year based on Medicaid eligibility applications alone," and that the cost to the Attorney General's Office, state agencies, and the courts is "significant."⁹ These significant costs were not included in the budget.

For these reasons, I disapprove of Senate Bill 940, *An Act Concerning State Agency Compliance with Probate Court Orders*. Pursuant to Section 15 of Article Fourth of the Constitution of the State of Connecticut, I am returning Senate Bill 940 without my signature.

Sincerely,



Ned Lamont
Governor

⁵ Testimony of Attorney General William Tong on SB 938, March 6, 2019.

⁶ *Id.* See also, 42 U.S.C. 1396c.

⁷ 42 U.S.C. § 1396r-5 (d) (5). *Valliere v. Commissioner of Social Services*, 328 Conn. 294, 302-04 (2018) ("Where a prior court order regarding a [community spouse allowance] has entered, however, the department is obliged to adopt that amount pursuant to [42 U.S.C.] § 1396r-5 (d) (5).")

⁸ Conn. Gen. Stat. § 4-166 *et seq.*

⁹ Testimony of Attorney General William Tong on SB 938, March 6, 2019.